

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #11	CCRB Case #: 201807424	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 09/03/2018 5:30 PM	Location of Incident: 196 Grant Avenue and the 75th Precinct stationhouse	Precinct: 75	18 Mo. SOL 3/3/2020	EO SOL 3/3/2020	
Date/Time CV Reported Fri, 09/07/2018 8:27 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/07/2018 8:27 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Steve Torres	17913	959310	075 PCT
2. POM Lawrence Perrotta	14195	943673	075 PCT
3. An officer			075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Steve Torres	Abuse: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres stopped § 87(2)(b)	
B.POM Steve Torres	Force: In front of 196 Grand Avenue in Brooklyn, Police Officer Steve Torres used physical force against § 87(2)(b)	
C.POM Lawrence Perrotta	Force: In front of 196 Grant Avenue in Brooklyn, Police Officer Lawrence Perrotta used physical force against § 87(2)(b)	
D.POM Steve Torres	Force: In front of 196 Grand Avenue in Brooklyn, Police Officer Steve Torres used a chokehold against § 87(2)(b)	
E.POM Steve Torres	Abuse: In front of 196 Grand Avenue in Brooklyn, Police Officer Steve Torres interfered with an individual's use of a recording device.	
F.POM Lawrence Perrotta	Force: In front of 196 Grand Avenue in Brooklyn, Police Officer Lawrence Perrotta used physical force against § 87(2)(b)	
G.POM Steve Torres	Force: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
H.POM Steve Torres	Force: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
I.POM Steve Torres	Discourtesy: In front of 196 Grand Avenue in Brooklyn, Police Officer Steve Torres spoke discourteously to an individual.	[REDACTED]
J.POM Steve Torres	Abuse: In front of 196 Grand Avenue in Brooklyn, Police Officer Steve Torres threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
K.POM Steve Torres	Abuse: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres threatened individuals with the use of force.	[REDACTED]
L. An officer	Discourtesy: At the 75th Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On September 7, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone.

On September 3, 2018, at approximately 5:30 p.m., in front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres of the 75th Precinct stopped § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Torres and Police Officer Lawrence Perrotta, also of the 75th Precinct, used physical force against § 87(2)(b) (**Allegations B and C: Force**, § 87(2)(g)). PO Torres allegedly used a chokehold against § 87(2)(b) (**Allegation D: Force**, § 87(2)(g)) and interfered with § 87(2)(b)'s use of a recording device (**Allegation E: Abuse of Authority**, § 87(2)(g)).

PO Perrotta and PO Torres used physical force against § 87(2)(b) taking him to the ground (**Allegations F and G: Force**, § 87(2)(g)). PO Torres then allegedly kned § 87(2)(b) (**Allegation H: Force**, § 87(2)(g)). spoke discourteously to § 87(2)(b) (**Allegation I: Discourtesy**, § 87(2)(g)). PO Torres threatened § 87(2)(b) with the use of force and threatened individuals with the use of force (**Allegations J and K: Abuse of Authority**, § 87(2)(g)).

At the 75th Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) (**Allegation L: Discourtesy**, § 87(2)(g)).

§ 87(4-b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Both § 87(2)(b) and § 87(2)(b) were arrested as a result of this incident.

Video footage was obtained from § 87(2)(b) which was forwarded to him from an unidentified bystander. The footage will be discussed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres stopped § 87(2)(b)

An attorney was consulted in this case. The following facts are undisputed:

On September 3, 2018, at approximately 5:30 p.m., § 87(2)(b) and § 87(2)(b) were smoking hookah on the sidewalk in front of 196 Grant Avenue in Brooklyn. Several other people were on the block. PO Torres and PO Perrotta arrived at the location. PO Torres arrested § 87(2)(b) in regard to an incident with § 87(2)(b)'s vehicle that occurred the night before. § 87(2)(b) was arrested for § 87(2)(b).

§ 87(2)(b) attempted to leave the location with the hookah pipe in his hand. PO Torres stopped § 87(2)(b) and a struggle ensued between § 87(2)(b) and PO Torres, in which § 87(2)(b) actively resisted PO Torres' efforts to arrest him. PO Perrotta assisted PO Torres in arresting § 87(2)(b). § 87(2)(b) was ultimately arrested for § 87(2)(b). During the struggle, PO Torres' body-worn camera fell off his uniform and at some point, § 87(2)(b) picked up the camera. PO Torres and PO Perrotta then arrested § 87(2)(b) who resisted the arrest. § 87(2)(b) was arrested for § 87(2)(b).

According to § 87(2)(b) (BR 07), when he noticed PO Torres and PO Perrotta arrive on the block, he walked away with the hookah pipe with § 87(2)(b) § 87(2)(b) intended to walk to § 87(2)(b)'s home to drop off the hookah pipe. As § 87(2)(b) stepped into the street, PO Torres called out for him to stop. § 87(2)(b) stepped back on the sidewalk. § 87(2)(b) did not remember if he was still holding the hookah pipe at this time. PO Torres rapidly approached § 87(2)(b) without saying anything or issuing him any commands, and grabbed § 87(2)(b)'s right arm, pulling it behind his back.

§ 87(2)(b) and § 87(2)(b) (BR 08-09) provided unverified telephone statements before becoming uncooperative with the investigation. § 87(2)(b) and § 87(2)(b) did not provide any details as to what occurred before § 87(2)(b) was arrested.

The investigation was unable to locate contact information for § 87(2)(b).

According to PO Torres (BR 10), Sector A, which he has patrolled for approximately one year, has a heavy Trinitario gang presence. PO Torres has had previous interactions with § 87(2)(b) especially dealing with § 87(2)(b)'s car, which PO Torres determined was unregistered and uninsured in a previous interaction. On the night prior to this incident, PO Torres broke up a "car meet," which consists of gang members and teenagers parking their cars diagonally down the street and smoking hookah. § 87(2)(b) pulled up behind PO Torres' unmarked van. When PO Torres exited the van, § 87(2)(b) immediately reversed down the street, almost hitting an unidentified civilian and another vehicle. § 87(2)(b) then ran a red light.

On September 3, 2018, PO Torres, PO Perrotta, and a "gray shirt" officer, who was still a police recruit assigned to the Police Academy at the time, were driving down Grant Avenue in Brooklyn. PO Torres did not remember the name of the police recruit and did not have it noted in his memo book. PO Torres saw § 87(2)(b) and § 87(2)(b) smoking tobacco out of a hookah on the sidewalk in front of § 87(2)(b)'s car. PO Torres decided to approach § 87(2)(b) to speak about the incident the night before.

PO Torres asked § 87(2)(b) why he "ran" from him the previous night. § 87(2)(b) said, "You know my car situation." PO Torres then placed § 87(2)(b) into handcuffs without incident.

After handcuffing § 87(2)(b) PO Torres approached § 87(2)(b) who was holding a glass and metal hookah pipe, which was approximately three feet long. Because § 87(2)(b) was with § 87(2)(b) in a gang-prone location and was smoking hookah with an open flame, PO Torres asked § 87(2)(b) for his identification and to put the hookah pipe down. § 87(2)(b) did not respond the first two times PO Torres issued these commands. After asking a third time without a response from § 87(2)(b) PO Torres shook § 87(2)(b)'s right wrist so that he would release the hookah. § 87(2)(b) then dropped the hookah and used his left shoulder to bump into PO Torres, causing PO Torres to stumble.

Where a police officer entertains a reasonable suspicion that a particular person has committed, is committing or is about to commit a felony or misdemeanor, the New York State Criminal Procedure Law authorizes a forcible stop and detention of that person. People v. Debour 40 N.Y.2d 210 (1976) (BR 26).

The NYC Administrative Code Section FC 308, which addresses open flames, does not list hookah as an "open flame" device or otherwise codify any rules pertaining to lit hookahs or anything that would indicate that it is unlawful to smoke a hookah (or be in the presence of one) in public (BR 27).

The investigation could not find any relevant NYPD Patrol Guide Procedures, FINEST messages, or other NYPD Operation Orders issued regarding hookah and open flames and whether smoking hookah on a public street is a crime. According to the NYPD Risk Management Bureau, there is no training or patrol guide procedure section that allows officers to issue a summons for a hookah.

Although it is disputed whether § 87(2)(b) was already walking away from PO Torres at the time PO Torres stopped him, PO Torres testified that he only asked for § 87(2)(b)'s identification because he was with § 87(2)(b) in a gang-prone location and was smoking hookah. § 87(2)(g)

§ 87(2)(g)

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Allegation (B) Force: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres used physical force against § 87(2)(b)

Allegation (C) Force: In front of 196 Grant Avenue in Brooklyn, Police Officer Lawrence Perrotta used physical force against § 87(2)(b)

§ 87(2)(b) (BR 07) said that in response to PO Torres grabbing his arm, he moved his body back and forth and pulled away from PO Torres. PO Torres pushed § 87(2)(b) backward, causing § 87(2)(b) to stumble toward a gate outside a nearby residence. PO Torres then grabbed § 87(2)(b)'s shirt. § 87(2)(b) continued to pull away from PO Torres causing § 87(2)(b) to hit into several trashcans.

At this point, § 87(2)(b) allowed PO Torres to take him to the ground. PO Torres exerted pressure on § 87(2)(b)'s head, back of his neck, and back, causing § 87(2)(b) to fall on his stomach. PO Torres put his knees on § 87(2)(b)'s back and back of his neck, causing § 87(2)(b)'s chin to grind into the pavement. PO Perrotta then approached § 87(2)(b) and assisted PO Torres in placing him in handcuffs.

§ 87(2)(b) provided a video of the abrasion to his chin, which was taken on September 5, 2018. The investigation took a screenshot of the video capturing the abrasion (BR 11). On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) for pain to his right arm, lower back, and chin. § 87(2)(b)'s discharge papers from § 87(2)(b) indicate that he complained of pain in an unspecified limb and received medication, though they do not specify a diagnosis or the medication he received (see medical records).

§ 87(2)(b) (BR 08) said officers approached his friend, known only by "§ 87(2)(b)" threw "§ 87(2)(b)" on the ground, and hit him several times. § 87(2)(b) (BR 09) said officers arrested his friend, whom he did not identify, and the officers struck his friend several times. § 87(2)(b) did not elaborate as to how or where the officers struck his friend. § 87(2)(b)'s friend was not resisting.

PO Torres (BR 10) said that after § 87(2)(b) used his left shoulder to bump into him, he attempted to grab § 87(2)(b) as he was under arrest for § 87(2)(b) at this time, but § 87(2)(b)

§ 87(2)(b) pushed PO Torres' away. As a result of trying to grab § 87(2)(b)'s hands and § 87(2)(b) pushing PO Torres away, PO Torres and § 87(2)(b) fell into a gated area outside a brownstone on Grant Avenue.

On the ground, PO Torres issued § 87(2)(b) several commands to give him his hands, but § 87(2)(b) did not comply. At this time, PO Perrotta placed § 87(2)(b) into the police van and came to assist PO Torres in placing § 87(2)(b) in handcuffs. PO Torres did not recall if he placed his knees on § 87(2)(b)'s back or the back of his neck. PO Torres did not see any injuries on § 87(2)(b) as a result of the force used against him. The struggle lasted for approximately 20 seconds.

PO Perrotta (BR 16) said that he saw PO Torres struggling with § 87(2)(b) as § 87(2)(b) refused to give PO Torres his hand. Once PO Torres and § 87(2)(b) were on the ground, PO Perrotta used his "body weight" during the incident to keep § 87(2)(b) on the ground, as § 87(2)(b) attempted to get off the ground and escape. PO Perrotta did not remember where his body made contact with § 87(2)(b). PO Perrotta could not estimate how long it took to place § 87(2)(b) into handcuffs.

The TRI PO Torres prepared is consistent with his testimony (BR 22).

Active resisting includes physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, and pushing to avoid or prevent being taken into or retained in custody. NYPD Patrol Guide Procedure 221-02 (BR 12).

Force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide Procedure 221-01 (BR 13).

A police officer, in the course of effecting or attempting to effect an arrest, of a person whom he reasonably believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest, or to prevent escape from custody. N.Y. Penal Law § 35.30 (BR 24).

It is undisputed that § 87(2)(b) actively resisted PO Torres' attempt to arrest him, by moving his body back and forth and pulling away from PO Torres. § 87(2)(g)

§ 87(2)(g)

Allegation (D) Force: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres used a chokehold against § 87(2)(b)

§ 87(2)(b) (BR 07) said that immediately after moving through the gate, PO Torres wrapped his arm around § 87(2)(b)'s head in the process of trying to restrain him. PO Torres' arm contacted the back and right side of § 87(2)(b)'s neck in a posture similar to a

headlock. § 87(2)(b) s breathing was not restricted. § 87(2)(b) continued to pull away from PO Torres.

Neither § 87(2)(b) (BR 08) nor § 87(2)(b) (BR 09) mentioned § 87(2)(b) being placed into a headlock during the incident.

PO Torres (BR 10) said he did not place his arm around the back and right side of § 87(2)(b) s neck and did not place § 87(2)(b) into a chokehold. PO Perrotta (BR 16) did not see PO Torres used a chokehold against § 87(2)(b)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (E) Abuse of Authority: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres interfered with § 87(2)(b) s use of a recording device.

According to § 87(2)(b) (BR 07), several civilians gathered around the location and recorded his arrest. After PO Torres escorted § 87(2)(b) back through the gate, PO Torres sat § 87(2)(b) on the side of the road. PO Torres argued with an unidentified male who was recording the incident and told the individual to stop recording the arrest. The individual appeared to put away his cell phone.

§ 87(2)(b) (BR 08) and § 87(2)(b) (BR 09) did not say anything about § 87(2)(b) being told to stop recording the incident.

PO Torres (BR 10) said that a crowd of approximately ten people formed during § 87(2)(b) s arrest. PO Torres was familiar with these individuals from the area and many of them knew PO Torres by name. PO Torres told the individuals to back up, but they would only briefly comply. PO Torres never told § 87(2)(b) to stop recording the arrest.

PO Perrotta (BR 16) also said that a group of more than ten people formed during § 87(2)(b) s arrest. PO Perrotta did not know if anyone in the crowd was recording and did not hear PO Torres tell § 87(2)(b) in the crowd to stop recording the incident.

§ 87(2)(g)
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Allegation (F) Force: In front of 196 Grant Avenue in Brooklyn, Police Officer Lawrence Perrotta used physical force against § 87(2)(b)

Allegation (G) Force: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres used physical force against § 87(2)(b)

§ 87(2)(b) (BR 07) did not allege that officers used physical force against § 87(2)(b) § 87(2)(b)

According to § 87(2)(b) telephone statement (BR 08), during “§ 87(2)(b) arrest, PO Torres’ body camera fell off and § 87(2)(b) picked up the camera and walked it to a second officer. § 87(2)(b) extended his arm to give the camera to the second officer. The second officer “rushed up to” § 87(2)(b) and hit him multiple times in his body and face. The officer then placed § 87(2)(b) into handcuffs. As previously stated, § 87(2)(b) was uncooperative with the investigation after providing a telephone statement.

§ 87(2)(b) provided video footage of § 87(2)(b) arrest, which was taken by an unidentified bystander, and then forwarded to § 87(2)(b). The video (BR 14), embedded below, shows § 87(2)(b) wearing a royal blue shirt, sitting against the fence. PO Torres and PO Perrotta are holding § 87(2)(b) wearing a white shirt, against the fence. § 87(2)(b) briefly turns away from PO Perrotta and PO Torres, though it is not completely clear whether § 87(2)(b) breaks free of the officers' grip. As the officers are holding onto § 87(2)(b) near the front of his body (it is unclear exactly where based on the positioning of the individual recording the video), an unidentified black object falls on the ground. PO Torres and PO Perrotta then take § 87(2)(b) to the ground. § 87(2)(b) lands on his side and PO Perrotta lands sideways on top of § 87(2)(b) left leg. PO Torres stands near § 87(2)(b) backside (<<00:00 – 00:06>>). Once the officers turn § 87(2)(b) onto his stomach, § 87(2)(b) holds his arms underneath his body until PO Perrotta and PO § 87(2)(b) can pull them behind his back (<<00:28 – 00:32>>).



IA 94.mp4

PO Perrotta (BR 16) saw § 87(2)(b) pick up PO Torres' body-worn camera and walk away with it. PO Perrotta verbally told § 87(2)(b) to stop and "come over here," but § 87(2)(b) proceeded to place PO Torres' body-worn camera behind a trashcan approximately 15 feet away. PO Perrotta approached § 87(2)(b) as he was under arrest for stealing police property. PO Perrotta took § 87(2)(b) to the ground using his "strength," as § 87(2)(b) was noncompliant and stiffened his arms to avoid being arrested. PO Perrotta did not remember how § 87(2)(b) landed or if PO Torres assisted in the arrest. PO Perrotta denied hitting § 87(2)(b) in the face.

PO Perrotta reviewed the above video footage and explained that § 87(2)(b) did break free of the officers' grip at the 00:02 mark and the black object that falls to the ground is a body-worn camera, though he did not know if it was PO Torres' body-worn camera. The force depicted in the video is consistent with PO Perrotta's description of using his "body weight" to overcome § 87(2)(b) resistance.

PO Torres (BR 10) originally testified that he did not assist in arresting § 87(2)(b). After reviewing the above video, PO Torres amended his statement to include the fact that he assisted in arresting § 87(2)(b). § 87(2)(b) resists being arrested at the beginning of the video by trying to get away from PO Torres and PO Perrotta. PO Perrotta is a "big guy" and had "to take § 87(2)(b) down," to overcome § 87(2)(b) resistance.

The TRI PO Perrotta prepared is consistent with his testimony (BR 23).

Active resisting includes physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, and pushing to avoid or prevent being taken into or retained in custody. NYPD Patrol Guide Procedure 221-02 (BR 12).

Force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide Procedure 221-01 (BR 13).

A police officer, in the course of effecting or attempting to effect an arrest, of a person whom he reasonably believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest, or to prevent escape from custody. N.Y. Penal Law § 35.30 (BR 24).

§ 87(2)(g)

§ 87(2)(g)

Allegation (H) Force: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres used physical force against § 87(2)(b)

The video of § 87(2)(b) arrest also shows PO Torres place his knee below § 87(2)(b) head area while PO Perrotta attempts to place one handcuff on § 87(2)(b). At the point of initial contact, § 87(2)(b) head jerks toward the ground. It is unclear if § 87(2)(b) head physically makes contact with the ground. § 87(2)(b) screams, “You don’t need to stomp my head, bro.” PO Torres keeps his knee below § 87(2)(b) head area until he and PO Perrotta turn § 87(2)(b) on his stomach (<<00:06 – 00:23>>).



IA 94.mp4

§ 87(2)(b) (BR 08) did not specify that an officer “stomped his head” or kned him in the head during his telephone statement.

PO Torres (BR 10) reviewed this portion of the video and said that he placed his knee in § 87(2)(b) “shoulder area” to prevent § 87(2)(b) from trying to get off the ground and escape. PO Torres did not intentionally place his knee in § 87(2)(b) face to cause it to jerk to the ground.

§ 87(2)(g)

Allegation (I) Discourtesy: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres spoke discourteously to § 87(2)(b)

In the aforementioned video, after § 87(2)(b) is handcuffed, PO Torres gets off the ground and walks toward a group of approximately two females and four males, two of which are recording the incident. PO Torres says, “Give me the fucking camera. I’m not playing.” PO Perrotta then says, “I got it.”



IA 94.mp4

PO Torres (BR 10) explained that he said this because he thought one of the individuals in the group had his body-worn camera before PO Perrotta told him he had the camera. PO Torres could not provide a reason he used the word “fucking.”

Profanity used by police officers has been found to be permissible where the officer has resorted to such language in the heat of a highly dangerous situation. Disciplinary Case No. 2013-10143 (BR 15).

§ 87(2)(g)

§ 87(2)(g)

Allegation (J) Abuse of Authority: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres threatened § 87(2)(b) with the use of force.

Allegation (K) Abuse of Authority: In front of 196 Grant Avenue in Brooklyn, Police Officer Steve Torres threatened individuals with the use of force.

According to § 87(2)(b) (BR 07), after § 87(2)(b) was arrested, PO Torres then drew his taser and held it at his side while holding § 87(2)(b) who was handcuffed, against the van with his other hand.

Neither § 87(2)(b) (BR 08) nor § 87(2)(b) (BR 09) stated that PO Torres removed his taser during the incident.

§ 87(2)(b) provided a second video of the incident, which was taken by another unidentified bystander (BR 17). The video below begins with PO Torres pointing his taser in the direction of § 87(2)(b) who is against a green car, for approximately two seconds. PO Perrotta is behind § 87(2)(b) PO Torres then holds the taser at his right side. PO Torres uses his left hand to keep § 87(2)(b) against the police vehicle. It is unclear from the video at which point PO Torres holsters his taser.



IA 100.mp4

PO Torres (BR 10) reviewed the video and said he drew and pointed his taser toward the left part of the screen because there were more than ten people off-screen encroaching on the area where he and PO Perrotta were holding § 87(2)(b) and § 87(2)(b) PO Torres and PO Perrotta were the only officers on scene at the time and the crowd refused to comply with PO Torres' commands to back up and stand across the street.

A Conducted Electrical Weapon (CEW) should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. NYPD Patrol Guide Procedure 221-08 (BR 18).

Active resisting includes physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, and pushing to avoid or prevent being taken into or retained in custody. Active aggression is a threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. NYPD Patrol Guide Procedure 221-02 (BR 12).

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

Allegation (L) Discourtesy: At the 75th Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)

According to § 87(2)(b) (BR 07), when he arrived at the 75th Precinct stationhouse with § 87(2)(b) and § 87(2)(b) he was speaking with his friends in Spanish in front of the desk about the injury to his chin and that the officers mistreated him. A uniformed officer with a dark skin tone told § 87(2)(b) “Shut the fuck up.” § 87(2)(b) could not describe the officer further, including the officer’s gender.

PO Torres (BR 10) and PO Perrotta (BR 16) both denied hearing any officer tell § 87(2)(b) to “shut the fuck up” at the stationhouse. PO Perrotta said that a cell attendant may have interacted with § 87(2)(b) but he was not certain.

According to the 75th Precinct Roll Call (BR 19), Sergeant Michael Hansson was the desk officer, Sergeant Steven Siermala was the 311 operator, and Police Officer Justin Puccia and Police Officer James Murphy were assigned to stationhouse security. Sgt. Hansson, Sgt. Siermala, PO Puccia, and PO Murphy are all white males and none of the officers has a dark skin tone (BR 25).

§ 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) and § 87(2)(b) have been a party (BR 05-06).
- PO Torres has been a member of service for three years and has been a subject in two prior CCRB complaints and five allegations, none of which was substantiated. § 87(2)(g)
- PO Perrotta has been a member of service for 11 years and has been a subject in nine prior CCRB complaints and 18 allegations, of which four were substantiated:
 - 201405057 involved substantiated allegations of threat of force (verbal or physical), threat to damage/seize property, refusal to provide name/shield number, and discourtesy – word. The Board recommended Command Discipline B and the NYPD imposed Command Discipline B for the threat of force allegation.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of December 14, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 01-02).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 03). § 87(2)(b)'s criminal case regarding his arrest during this incident is still active.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 04). § 87(2)(b) criminal case regarding his arrest during this incident is still active.

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date